

**FISH AND GAME COMMISSION
STATEMENT OF PROPOSED EMERGENCY
REGULATORY ACTION**

**Emergency Action to Amend Title 14, Chapter 3, Article 3, Section 7.50(b)(147)
Re: Closure of Putah Creek (Solano and Yolo counties) to all fishing while
investigating New Zealand mudsnail infestation.**

- I. Statement of Facts Constituting Need for Emergency Regulatory Action:**
New Zealand mudsnails (NZMS), a native of New Zealand and an invasive species in California, was discovered in Putah Creek on October 30, 2003, and later positively identified by the Department. NZMS are small (about 1/16 to 1/8 inch) invasive snails that are known to achieve densities of over 500,000 per square yard. These snails have the potential to significantly impact fisheries by out-competing and displacing native aquatic insects and other bottom-dwelling organisms that are important sources of food for aquatic animals. The economic impacts of a large-scale infestation of NZMS are unknown. Impacts of NZMS infestations to aquatic ecosystems in the Owens River drainage, Mono County, have yet to be fully determined.

Current regulations allow fishing in Putah Creek from Solano Lake to Montecello Dam all year. From the last Saturday in April through November 15 the daily bag limit is five trout. From November 16 through the Friday preceding the last Saturday in April the daily bag limit is zero trout, and gear is restricted to artificial lures and barbless hooks only.

This proposal recommends that the Commission adopt an emergency closure of Putah Creek to all fishing for 120 days while the extent of an infestation of NZMS and other potential courses of action can be determined.

Anglers wading in the stream are one of the principal mechanisms for spreading NZMS. If waders or boots are not properly cleaned, any attached NZMS can survive for up to 30 days and become introduced in other waters where the gear is used. Quarantine of an infested area is an acceptable practice for limiting the spread of an invasive species while developing a plan to either eliminate the organism or reduce its potential impacts.

During the proposed 120-day fishing closure, the Department in cooperation with other agencies, private consultants, and fishing organizations plan to:

- a. delineate the infestation within Putah Creek
- b. survey other streams for NZMS,
- c. develop identification and reporting protocols,
- d. improve outreach and educational campaigns,
- e. investigate if reasonable treatment options exist.

The Department believes this is a prudent course of action at this location and will, at the very least, slow the spread of this prolific invader.

II. Alternatives

The Commission has determined that no alternative considered would be more effective in carrying out the purpose of which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

III. Economic Impact of Proposed Regulatory Action:

The Commission has assessed the potential for significant adverse economic impact that might result from the proposed regulatory action and has made the following determinations relative to the required statutory categories:

- (a) Significant Adverse Economic Impact on Businesses: Although some local businesses may be affected, the economic impact is expected to be relatively minor during the proposed temporary closure.
- (b) Economic Impact on Private Persons: Many of the anglers who fish Putah Creek are in favor of the proposed closure. Other anglers will have continued angling opportunities in adjacent waters. The economic impact to individuals is expected to be very minor.
- (c) Adversely Impact the Ability of California Businesses to Compete with Businesses in Other States: None.
- (d) Impact the Creation or Elimination of Jobs or Businesses or the Expansion of Businesses in California: None.
- (e) Fiscal Impact on Public Agencies, Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (f) Involve Nondiscretionary Costs/Savings to Local Agencies: None.
- (g) Mandate Programs on Local Agencies or School Districts: None.
- (h) Impose Costs to Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (i) Affect Housing Costs: None.

IV. Plain English Policy Statement:

The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342(e) and 11346.2(a)(1).

V. Authority and Reference:

The Fish and Game Commission proposes this emergency action pursuant to the authority vested by Sections 200, 203, and 240 of the Fish and Game Code and to implement, interpret, or make specific Sections 200, 203, and 240 of said Code.

The sections below describe laws relating to the regulation of inland sport harvest, the effect of these emergency regulations, a description of related federal law, and a policy statement overview.

A. Laws Related to the Emergency Regulations

Fish and Game Code Laws:

Section 200 provides the Commission the power to regulate the taking or possession of birds, mammals, fish, etc.

Section 203 provides the Commission the power to establish, change or abolish bag and possession limits.

Section 240 provides the Commission the power to adopt an emergency regulation or order of repeal if the adoption of the regulation or order is necessary for the immediate conservation, preservation, or protection of birds, mammals, reptiles, or fish.

B. Effect of the Emergency Regulations

The proposed emergency regulations change Title 14, Chapter 3, Article 3, Section 7.50(b)(147) as follows:

Prohibit fishing in Putah Creek from the downstream end of Solano Lake to Monticello Dam for 120 days from the date this regulation is effective.

C. Existing, Comparable Federal Regulation or Statute

None.

D. Policy Statement Overview

The objective of this regulation is to prevent the spread of the invasive New Zealand mudsnail while surveys are conducted to determine the extent of the infestation and if eradication is feasible.

VI. Section 240 Finding:

Pursuant to the authority vested in it by the Fish and Game Code Section 240(a)(1), and for the reasons set forth above in the "Statement of Facts Constituting Need for Emergency Regulatory Action," the Commission expressly finds that adoption of these regulations is necessary for the immediate protection of Putah Creek and adjacent waters of the State from New Zealand mudsnail infestations. The Commission specifically finds that the adoption of this regulation will reduce the spread of the invasive New Zealand mudsnail until a plan of action to control the infestation is developed and implemented.

The Commission has complied with the special statutory requirements for its emergency regulations found at Section 240, FGC. A public hearing on this regulation was held on December 3, 2003, and the above finding that this regulation is necessary for the immediate protection of fish meets the requirements of Section 240.

Informative Digest (Plain English Overview)

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This proposal recommends an immediate closure of Putah Creek to all fishing for 120 days while the extent of an infestation of New Zealand mudsnails (NZMS) and other potential courses of appropriate action can be determined.

Anglers wading in the stream are one of the principal mechanisms for spreading NZMS. Quarantine of an infested area is an acceptable practice for limiting the spread of an invasive species while developing a plan to either eliminate the organism or reduce its potential impacts.

During the proposed 120-day fishing closure, the Department in cooperation with other agencies, private consultants, and fishing organizations plan to:

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